

REMARKS

The application has been amended and is believed to be in condition for allowance.

Amendments to the Disclosure

Independent claims 1 and 34 are amended to incorporate the subject matter of claim 25. Claims 1, 9, 33 and 34 are also amended to clarify some of the structural features of the invention, based in part on claim 3 and Figures 1-5.

Claim 34 is further amended to further recite the invention based on the specification and the drawings as originally filed (e.g., page 7, lines 9-11; page 9, lines 14-25).

Claim 26 is amended to depend from directly claim 1.

New claim 36 depends from claim 1 and recites the subject matter of both claims 30 and 31 (see also, e.g., page 9, lines 9-21). New claim 37 depends from claim 1 and further recites the invention based on page 9, lines 14-25.

Claims 25 and 35 are canceled, without prejudice.

The foregoing amendments do not introduce new matter.

Formal Matters - Section 112, second paragraph

The Official Action rejected claims 1, 4, 12, 16-21 and 33-35 under 35 USC 112, second paragraph.

As to claim 1 and 34, the Official Action maintains from the previous Office Action that the recitation of a "bolt operating member" renders these claims are indefinite. The

Official Action asserts that the limitations of claim 25 are required to provide meaning or function to the claim.

In response, Applicants respectfully maintain the position set forth in the previous Amendment. However, in the interest of advancing prosecution, claims 1 and 34 are amended as indicated above to incorporate the subject matter of dependent claim 25. Accordingly, it is respectfully submitted that amended claims 1 and 34 obviate the Official Action's rejection. Withdrawal of the rejection of claims 1 and 34 under 35 USC 112, second paragraph is respectfully requested.

As to claims 33 and 35, the Official Action contends that it is unclear if the stop portion claimed in those claims is the same or different than the one already claimed in claim 1.

In response, claim 33 is amended in a manner believed to overcome this rejection, and claim 35 is canceled as indicated above. Withdrawal of the rejection of claims 33 and 35 under 35 USC 112, second paragraph is respectfully requested.

As to claims 12, and 16-21, the Official Action asserts that these claims are directed to a non elected species, and therefore are not considered for examination.

In response, the withdrawal of claims 12 and 16-21 is noted. The Official Action, however, has not stated how claims 12 and 16-21 are indefinite. Therefore, the rejection of these claims for indefiniteness is respectfully traversed as being procedurally insufficient. Withdrawal of the rejection of these

claims under 35 USC 112, second paragraph is respectfully requested.

As to claim 4, the Official Action contends that it is unclear how the fixing (sic) part has a part of the profiled section and further that extend in the same direction as the profiled section.

In response, claim 4 is amended in a manner believed to overcome this rejection.

Withdrawal of all the rejections under 35 USC 112, second paragraph is respectfully requested.

Substantive Issues - Section 102 and 103

The Official Action rejected claims 1-5, 9, 10, 25, 27, 28, 30-35 under 35 USC 102(b) as being anticipated by Campbell et al. (US Pat No 4,986,583; "CAMPBELL").

The Official Action rejected claims 1, 4, 22-28, 30, 31 and 33-35 under 35 USC 102(b) as being anticipated by Hall et al. (US Pat No 4,312,528; "HALL").

The Official Action rejected claims 3, 9 and 32 under 35 USC 103(a) as being unpatentable over HALL.

The Official Action rejected claim 11 under 35 USC 103(a) as being unpatentable over HALL in view of Yulkowski (US Pat No 3,969,845; "YULKOWSKI").

In response, it is firstly noted that the independent claims 1 and 34 are amended, as indicated above. It is respectfully submitted that claims 1 and 34, as amended, are

novel and non-obvious over the references applied by the Official Action.

For example, it is respectfully submitted that none of the references applied by the Official Action, whether considered individually or in combination, teach a crash bar comprising a member of longitudinally extending profiled section mounted to pivot about a longitudinal axis wherein the longitudinal axis is located at a first elongated edge portion of the profiled member, and the stop portion is located at an opposite second elongated edge portion of the profiled member, as recited by amended claims 1 and 34.

CAMPBELL, in contrast, teaches a pivot axis and a stop portion positioned at the same end of the crash bar.

HALL teaches the stop portion a point that is distant from both opposite ends of the metal plates of the operating device 32.

It is therefore respectfully submitted, for at least this reason, that claims 1 and 34 are in patentable condition.

Further, CAMPBELL and HALL both fail to teach a longitudinally extending profiled member comprising a maneuvering portion situated between a longitudinal pivot axis (by which this member is articulated to a fixed part) and a stop portion delimiting a range of pivot movement of this profiled member with respect to the fixed part. CAMPBELL fails to teach a longitudinally extending profiled section, extending along the

articulation axis, and the maneuvering portion of CAMPBELL is at an end of the mobile member, whereas the articulation axis and any stop portion are near an opposite end of such mobile member. This would not lead the skilled person to the claimed invention.

As to HALL, this reference fails to teach a mobile member with a maneuvering portion between an articulation axis and a stop portion, since HALL provides two mobile members which are articulated toward each other when any action by a user is made on the articulation area. This reference also would not have led the skilled person to the invention claimed.

It is also noted that the Official Action offers CAMPBELL as teaching a longitudinal extending profiled section that is mounted to the fixed part to pivot about a longitudinal axis between an idle position remote from a door and a working position closed (sic) to the door, offering element 42 as the extending profiled section, element 40 as the longitudinal axis, and the shadowed portion of the Figure as teaching a working position.

Applicant respectfully disagrees. CAMPBELL discloses element 42 as a pull-type door handle (column 3, lines 62-62) wherein the idle position is close to the door (indicated by the solid lines) and the working position that operates the door-latch mechanism is remote from the door (indicated by the shadowed portion of Figure 6; see column 3, line 64 to column 4, line 12). It is therefore respectfully submitted that this

feature also, as recited by claim 34, is not anticipated by CAMPBELL (see also dependent claim 37).

Further, none of the other references applied by the Official Action would reasonably have motivated the skilled person to modify CAMPBELL or HALL to lead to the invention recited in claims 1 and 34.

Accordingly, it is respectfully submitted that claims 1 and 34 are patentable over the references applied by the Official Action.

It is further respectfully submitted that the claims depending from independent claim 1, including new claims 36 and 37, are patentable at least for depending from a patentable parent claim.

For example, none of the applied references teach or suggest a curved portion at the opposite second elongated edge portion of the crash bar, as recited by amended claim 9. Accordingly, it is respectfully submitted that claim 9 is patentable in its own right in addition to being dependent from claim 1.

As to claim 11, the Official Action contends that the skilled person would have been motivated by YULKOWSKI to modify the pin and slotted tube of HALL with an articulated bead rotatable inside a slotted tube.

However, the Official Action does not indicate with sufficient specificity how HALL would be modified such that it

still teaches a workable device. Obviousness is not shown, for example, where a modification to a reference would render that reference unsatisfactory. Here, the Official Action does not describe the modification to HALL in sufficient detail such that Applicant can understand that the modification is workable.

On the contrary, HALL not only teaches a pin and slot construction, but also that the slot is offset from the longitudinal axis of the plate (see Figs. 1 and 5). The proposed modification would remove this arrangement.

Further, the angular degree of movement of the bead/slotted tube arrangement of YULKOWSKI is limited: make the slot too wide, the bead is not held; make the slot too narrow, the pivot of the beaded member is limited. There is no showing that HALL would function satisfactorily within these limitations.

Based on these reasons, the Official Action has not provided a sufficient reason *why* the skilled person would modify HALL with YULKOWSKI. The mere suggestion that a modification *can* be made does not render the resultant combination obvious. Here, it is apparent that the proposed combination would at best fail to improve the HALL device, and more likely render the HALL unsatisfactory.

Accordingly, it is respectfully submitted that the Official Action has failed to establish a reasonable motivation to combine the references as proposed, and therefore obviousness

is not met with respect to claim 11, and claim 11 is patentable in its own right in addition to being dependent from claim 1.

Further as to new claim 36, it is respectfully submitted that none of the references applied by the Official Action teach or suggest a stop portion that delimits both a range of motion in a direction of the working position and a range of motion in a direction of the idle position. Accordingly, it is respectfully submitted that claim 9 is patentable in its own right in addition to being dependent from claim 1.

Withdrawal of the rejection over Sections 102 and 103 is therefore respectfully requested.

Applicants further respectfully request rejoinder of the withdrawn claims 12 and 16-21, as each of claims 12 and 16-21 incorporate by dependency all the features of a patentable claim.

From the foregoing, it will be apparent that Applicant has fully responded to the March 18, 2011 Official Action and that the claims as presented are patentable. In view of this, Applicant respectfully requests reconsideration of the claims, as presented, and their early passage to issue.

In order to expedite the prosecution of this case, the Examiner is invited to telephone the attorney for Applicant at the number set forth below if the Examiner is of the opinion that further discussion of this case would be helpful in advancing prosecution.

The Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 25-0120 for any additional fees required under 37 C.F.R. § 1.16 or under 37 C.F.R. § 1.17.

Respectfully submitted,

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